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INDIAN FEDERATION

BY

BOOL CHAND

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Indian Federation

BY

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A.

Federal Organisation To-day Out-of-date.

It is not the purpose of this statement to criticise Indian federation on the basis of those general points of criticism which may to-day be validly raised against the federal scheme as such. That is not the purpose of this statement because it is not the first time in the history of India that an attempt has been made to apply to this country a solution which is already beginning to be discarded everywhere else. Sociologists have often pointed out the persistence in human beings of, what they call "a cultural lag in ideas," a tendency to apply to contemporary problems solutions which were suggested by our grandfathers, however out of tune and inadequate those solutions might have become. This tendency, noticeable in every administration, is particularly typical of the British rulers of India.

To-day, when it is becoming generally recognised in the industrial countries of the West that of all the obstacles in the way of industrial progress by far the most serious is the division of legislative authority and the consequent diversity of legislative codes, a scheme of federation has been introduced into India. Even in America, rightly thought of as the traditional home of federalism, the defects of federal structure are to-day receiving far more attention than its virtues have ever done. Speculations are a little dangerous to make in the realm of political science; but one would not be far wrong if one said that, within the next generation, more books would be written against federation in America and other industrial federal countries of the world than have so far appeared eulogising the federal scheme of organisation.

The reason is that modern life is becoming so increasingly technical and complicated that the running of the state would become very difficult in the future unless there is greater concentration of directing authority. Diversity of control and direction always leads to conflicts of aims and interests, and results, therefore, in useless wastage of national skill and energy. So long as the country is in a simple state of economic structure, the wastage is not very large and in any case is somewhat made up for by the pride of liberty and freedom that may be the

natural result of decentralisation of authority. But as the economic system of a country becomes more and more involved, there comes with it the realisation of the dangers of excessive individualism and the appreciation of the fact that the division of controlling authority can be nothing but an obstacle to social and economic adjustment.

To bring into being, in these circumstances, a federal constitutional structure in a country, which is progressively industrialising, and which, as Sir Shafaat Khan points out, has been governed essentially as a unitary state for several centuries,¹ is a political blunder of the first magnitude. Wherever federations have taken place so far, they have come into existence as a result of the uniting together of a number of separate and independent units, in order to be able the better to achieve certain common purposes. Federations have been normally the expression of a desire for union and have been achieved only when that desire happened to be strong. It is only when the necessity for combination, for the solution of economic and other problems, has been felt to be absolutely inescapable that autonomous political units have been prepared to give up a part of their autonomy and coalesce into a union, in the knowledge that if once undergone the federal tie would be irrevocable. All this has been quite consonant with the general tendency of social and economic development leading to the creation of larger political combinations and greater concentration of authority.

But what was it that led the British statesmen to establish a federal scheme in India, even although it meant the adoption of the "unique" procedure of disintegrating authority where it had been united for generations and centuries together? Why was the British Government so enamoured of the federal organisation that it could not help giving it to India as a fitting legacy of its beneficent connection?

B

Reasons for the Creation of Federal Polity in India

For the establishment of a federal constitution in India, two reasons have been usually given. (a) that the huge dimensions of the area and population of India cannot be logically welded into one single political democracy of a unitary type. "The largest and most populous state democratically governed, the United States of America, has less than half India's population, and despite its high level of education, its possession of a common language and culture, and the long political experience of its people, it consists of 48 states united in a federation."² (b) that

¹ Indian Federation [London, 1937], p. 26.

² Report of the Indian Statutory Commission, 1930. Vol. II [Cmd. 3569], p. 14.

Indian federation is primarily a social or rather communal federation, a federation of communities, the necessity for its creation lying in the demand of various communal groups for cultural autonomy and protection.

Both these reasons, however, are irrelevant, so far as the main basis of our argument is concerned. Whether, for purely cultural and social purposes, administration is under the control of local authority or national authority as such matters little, so long as the division of administrative control does not and cannot cause a conflict in the economic policies of the various groups. The objection of the critics of federal organisation is not directed to a bifurcation or further division of administrative control: it is primarily concerned with the division of directing power in economic matters. The basis of all political and economic development being scientific planning, and scientific planning being impossible unless it is operated on a uniform, general, and national scale, taking in its purview all the aspects and avenues of production and other activities of the people, and touching all the parts of the country at the same time, it is argued that the division of control in economic matters interferes with what is the one condition indispensable for the success of modern administration, viz., a supreme and collective political as well as economic agency, which can act for the greatest number of human beings and which can satisfy, so far as possible, the demands of the community as a whole for commodities and services.

There is only one aspect of the scheme of Indian Federation which may, from this standpoint, be called progressive, and that is the provision for the entry of the Indian States into the federation. The prospect of completely "united India," offered by the Government of India Act, 1935, is a glorious prospect indeed; but even this aspect of the federal scheme greatly suffers in its attractiveness, and in certain ways forms the most deplorable element in it, when analysed more carefully and in detail.

The sorry aspect of this element proceeds from the very nature of the genesis of Indian federation. On the publication of the discredited Simon Commission Report and the angry reception that it got everywhere in India, it became clear to the British Government that there were no chances in India for any constitution which did not concede at least partial responsibility at the centre. But the British Government had no desire to accord responsible government to British India so long as it could not ensure that government's conservative character; and this could be done merely (*a*) by bringing the Indian States into a scheme of Indian federation, (*b*) by giving to these States a weighted representation in the federal legislature, and (*c*) by imposing no obligation on the part of the States to move towards

representative or responsible government, for such a movement might have the effect of destroying the conservative character of the States' representatives.³

The skill of the plan is obvious, for, once adopted, its result would be the substitution for direct British control of the centre of an indirect control through the agency of conservative Indian elements themselves which are opposed to the advance of democracy on principle. The successive steps by which the plan was actually secured were most cleverly managed. (i) It was first established that all the existing relations of the Indian States are with the British Crown, or personally with the Governor-General as its representative, and not with the British Government of India at all. (ii) From this hypothesis, it was argued that as against British India or its Government, the position of the Indian States was of absolute sovereignty and independence. Once these two propositions were established, it was naturally to the interest of the British Indian Government to seek to accomplish a union of the whole country by taking in Indian States as a part of an all-India federation, on almost any terms. At the same time, the Indian States would be only anxious to join such a federation, if possible to do so on their own terms, for joining such a federation would ensure them (1) a voice in the affairs of the Indian government, such as they had not possessed so far, and (2) a comparatively larger measure of freedom from interference from the Paramount Power than had so far been the case.

The plan of the British Government was quite successful. In the first flush of the formulation of the federal scheme, both British Indian opinion as well as Indian State rulers were eminently satisfied and even exultant. But however successful the plan of the British Government, the premises on which it was based were quite unjustifiable. Historically as well as legally, the ascription of sovereignty to Indian States was as unjustified as the separation of Paramountcy from the Government of India.

C

Are the Indian States Sovereign?

The contention that was put forward on behalf of the Indian Princes was that sovereignty is roughly divisible into two parts, external and internal, and that although external sovereignty had been long exercised for them by the Paramount Power, internal sovereignty was theirs as a matter of legal right, depending upon

³This opinion is based on the authority of Professor A. B. Keith. See Vardachariar: *Indian States in the Federation* [O.U.P., 1936], p. 142-3.

their treaties and engagements. But this view was categorically denied by the Indian States Committee, which felt that it was wrong to suggest that the relationship of the Paramount Power with the States was merely a contractual relationship, resting on treaties made more than a century ago. "It is a living, growing relationship, shaped by circumstances and policy, resting on a mixture of history, theory, and modern fact."⁴

The finding of the Indian States Committee was that the relationship between the Paramount Power and the Indian States could not be explained in any other terms than that the Indian States had a definite constitutional status within the British Empire, which is based as much on usage and sufferance as on treaties and engagements. "It is not in accordance with historical fact that paramountcy gives the Crown definite rights and imposes upon it definite duties in respect of certain matters only, viz., those relating to foreign affairs and external and internal security, unless those terms are made to cover all those acts which the Crown through its agents has considered necessary for imperial purposes, for the good government of India as a whole, the good government of individual states, the suppression of barbarous practices, the saving of human life, and for dealing with cases in which rulers have proved unfit for their position."⁵ The present-day relationship between the Paramount Power and the States is the product of change and growth: it depends upon Treaties, Engagements, and Sanads, but is necessarily supplemented by usage and sufferance and by the decisions of the Government of India and the Secretary of State as embodied in political practice. In its implications it is nearly all-pervasive, including the right of the Paramount Power to complete control over the States' external matters and inter-statal relations, to supervision over the States' internal administration, and to intervention, whenever it might be thought necessary, in order to effect the interest of the Prince, the State, or India as a whole.

These findings of the Indian States Committee are eminently borne out by historical facts. As early as 1859, Lord Canning was able to threaten a State with the penalty of "confiscation, in the event of disloyalty and flagrant breach of engagement." Lord Mayo enunciated the true relationship in 1870 in his words to the Rajput chiefs: "If we support you in your powers, we expect in return good government." In Lord Northbrook's time, the Paramount Power's interference in the state of Baroda and the deposition of the Gaekwar pointed to the reality of the situation. The Instrument of Transfer of 1881, which in effect created the Mysore State, reads more like a grant than like the recognition of pre-existing sovereignty. The right of the Para-

⁴ Report of Indian States Committee, 1928-9 [Cmd. 3302], p. 23.

⁵ Ibid, p. 24-5.

mount Power to determine the extent of its own sovereignty was asserted by Lord Curzon at Bahawalpur in 1903, and was more recently re-iterated in still more conclusive terms by Lord Reading in his letter to the Nizam in 1926. The history of the last decade or so gives particularly abundant evidence of the right of the Paramount Power to interfere in the internal affairs of Indian States. In 1921, the Maharana of Udaipur was required, after a rising against his government, to rectify causes of complaint, and to delegate powers to his son; in 1922, the Maharaja of Nabha was found guilty of having used the machinery of his state to secure illegal convictions against subjects and officials of a neighbouring State, and was permitted to abdicate; in 1926, the ruler of Indore was asked to face a commission of enquiry or abdicate, he choosing the latter course; in 1933, the Maharaja of Alwar was forced to leave his State, in the interest of good administration, for fifteen years.

In these circumstances, it is quite idle to contend that Indian States are in any way sovereign. There is, undoubtedly, a peculiar kind of dignity with which the Indian Prince is often invested, but this dignity as well as his sovereignty is purely formal and artificial. In fact, the Indian Prince has no unimpeachable rights against the Paramount Power.

D

Location of Paramountcy

But what is the Paramount Power? It is in the answering of this question that the British Government played its trump card.

The Indian States Committee proceeds to answer this question in a most casual manner, as if it was merely giving a definition of the term "Paramount Power." "The Paramount Power means the Crown acting through the Secretary of State for India and the Governor-General in Council, who are responsible to the Parliament of Great Britain."⁶ That answer is necessarily vague, for it does not state exactly whether the Paramount Power is distinct from the Government of India or not, though the Committee made its meaning more clear at a later stage in the report by suggesting that "the States demand that without their own agreement the rights and obligations of the Paramount Power should not be assigned to persons, who are not under its control, for instance, an Indian government in British India responsible to an Indian legislature."⁷ In effect, therefore, the Committee implied that Paramount Power was actually the British Crown as separate from the British Govern-

⁶ Report of Indian States Committee, p. 13.

⁷ Ibid, p. 31.

ment of India. As was only natural, the British Government immediately adopted the interpretation of the Indian States Committee in the Government of India Act, 1935, by making a distinction between the double position of the Governor-General, exercising in one capacity his administrative functions as the head of the Government of India, and performing in the other the functions of the Crown in its relations with the Indian States.

But the finding of the Indian States Committee is disputable on certain well-founded grounds :

(1) It cannot be said, as pointed out by Sir Sivaswamy Iyer,⁸ that the treaties with the Indian States were entered into by the Crown irrespective of its sovereignty of British India. Whether these treaties were made on behalf of the Crown by the East India Company or by the Governor-General, it is quite consonant with constitutional practice to assert that they were made by the Crown in its capacity as ruler of British India. The treaties cannot be said to have created mere personal rights and obligations of the Crown : all rights and obligations created must, by constitutional law, be in favour of authorities for the time being in charge of the Government of India.

(2) This point becomes all the clearer when it is remembered that the points of contact and other circumstances, of which these treaties were the result, were produced through the agency of British Indian resources. It was at British Indian expense that armies were raised to fight wars, of which these treaties were the outcome. It is upon the continuous existence and certainty of active assistance of British Indian armies that the fulfilment of treaty obligations by the Paramount Power is possible. The Paramount Power, in fact, has no existence in British India unless it is as the head of the British Indian government.

(3) Other factors which go to support the same conclusion may be briefly summarised. All the tributes chargeable on the Indian States have been, without exception, paid to the revenues of British India. The Act of 1919 specifically prohibited the Indian legislature from considering any measure affecting the relations of the Government of India with foreign princes or states, without the previous sanction of the Governor-General; but it imposed no such restrictions with regard to the Indian States, and during recent decades, a number of measures have actually been passed by the British Indian legislature which intimately affected the relationship between the Government of India and the Indian States, and which sometimes even altered the internal laws of the States.

The truth is that the Indian States Committee did not take a dispassionate view of historical evidence as to the question of the location of Paramountcy. Its report even gives the impression

⁸ Indian Constitutional Problems [Bombay, 1938], chapt. XI, pp. 199-219.

that the Committee started with its mind already made up in this matter. It appears to be offering a bait to the Indian States to accept its view of the location of Paramountcy. "Nor need the States take alarm at this conclusion. Through paramountcy and paramountcy alone, have grown up and flourished those strong benign relations between the Crown and the Princes on which at all times the States rely. On paramountcy and paramountcy alone can the States rely for their preservation through the generations that are to come. Through paramountcy is pushed aside the danger of destruction and annexation."⁹ These words, reflective as they are on British Indian opinion, are quite out of place in the report of an impartial inquiry committee, and they afford a vague revelation of the plan that the British Government seemed already to have conceived as to the future constitution of India.

E

Certain Obvious Anomalies in the Indian Federal Scheme

However, Indian Federation, as planned by the British Government, is already an accomplished fact. The Act providing for it has been passed, and now the manœuvres for bringing the States into the federal scheme are active, so that before long we may expect to see the federal scheme in actual operation in India. But as the objective is coming more and more in sight, the details of the federal scheme are looking more and more dangerous and unworkable.

In its form truly federal, possessing the normal characteristics of a federation—a rigid constitution, an elaborate distinction of federal and local powers, and the creation of a federal court, the scheme of Indian Federation nevertheless bristles with numerous legal and political complications, born naturally out of the special conditions in which the idea of Indian federalism was conceived. A federation is usually a simple and regular organisation, its constituent units having a similar status and character and uniting for certain common purposes. But the Indian Federation is composed of two entirely different elements. On the one side, there are the Provinces, which have so far been united under the control of a central government with plenary powers and have, in fact, been "wholly subordinate divisions of a unitary state," so that the new scheme of federation confers upon them an autonomy which they have not so far possessed. On the other side, there are the Indian States, whose accession to the federal scheme would, at least formally, mean a surrender of some measure of their 'traditional' autonomy.

The Indian Federation, thus, is not a simple creation; it is a composite organisation, tending in one of its aspects to the

⁹ Report of Indian States Committee, p. 31

separation and autonomisation of certain territorial units, and in the other to the bringing together and formal subordination of certain others. Even in status and character, these two types of federal units are mutually distinct and would remain so under the new scheme. The States are under the personal rule of the Princes, while the Provinces have more or less responsible government: the representatives of the States in the Federal Legislature will be the nominees of the Rulers, while the representatives of the Provinces will be elected by the people. In any federation, there is a double citizenship, Federal and Provincial; the Federal government acts not only for the associated Provinces, but also directly for their citizens. But in the Indian Federation, the subjects of the Native States, although these States may accede to the federal scheme, would not be citizens of the federation; they would not be in the enjoyment of the same civic rights as those enjoyed by the citizens of the British Indian Provinces. The Indian federation, therefore, is really a union between the autocratic rulers of the Indian States and the more or less democratic governments of the Provinces.

This composite character of the Indian federation goes to the very root of the interminable complexities of the federal constitutional structure. In particular, it shows itself in the curious organisation of the legislative and the executive authority of the Federation.

As regards legislative matters, the provisions of the Act are extremely intricate. In almost every federation, the federal and the provincial governments are assigned definite spheres of activity, residuary powers of legislation being reserved either to the one or to the other. The Indian federal constitution, on the other hand, after elaborately enumerating the distinct powers of the Federation and the Provinces, has reserved a wide sphere for concurrent legislation by the two, and what is still more interesting, has granted the power of assigning heads of legislation and finance not allocated by the Act to the federation or to the provinces to the single undisturbed will of the Governor-General in his discretion.

This arrangement, however, regulates the relations between the Federation and the Provinces only. With regard to the Indian States, the provisions in the Act are different. On the assumption that Indian States can be brought into the federation only by their own voluntary decision, it has been stipulated in the Act that each State wishing to accede to the federation may specify its own conditions for doing so in its Instrument of Accession. The Crown is, indeed, free to reject offers of accession which do not preserve the essential federal character of the resulting relation, and it is presumable that the Crown would exercise its prerogative so as to prevent any disturbance of the

federal structure; but this stipulation in the Act does nevertheless offer a constant possibility of new and disturbing conditions. But even if we suppose that all the Instruments of Accession will be in the same form, still it must be pointed out that the division of legislative power between the Federation and the Indian States as contemplated in the Draft of the Instrument of Accession in Parliamentary Paper, Cmd. 4843, is different from what it is between the Federation and the Provinces.

In the executive sphere, similarly, there is no uniformity of authority in the Federation. While in the Provinces the executive authority of the Federation will be uniform and generally supreme in its decisiveness over provincial authority, in the Indian States it may greatly vary, primarily because of the recognition by the Act of the fact of States' sovereignty, whose limits, in any case of conflict, must be decided by the Federal Court, and secondly because of the States having been recognised to have a double relationship, one with the Federal Government after they have joined the federation, and the other with the Paramount Power, the British Crown as distinct from the Federal Government, to whom they are bound by various treaties, engagements, and sanads, supplemented by a whole body of usage and sufferance. It is possible that the rights of the Paramount Power will in general not be exercised in antagonism to the true interests of the federation, but the possibility of a conflict is always there. And in any case, as pointed out by Professor Keith, both as regards the federal executive and legislative authority, there may be great variations as between the various States themselves, according to the varying nature of their relationship with the Paramount Power.

F

Indian attitude towards the Federal Scheme

All these complex constitutional provisions of the proposed Indian Federation are naturally having their reactions on the opinion of the British Indian public as well as the Indian State rulers.

So far as British India is concerned, the first flush of triumph at the idea of an all-India federation did not take long to wear out and disappear. The enthusiastic speeches of the first session of the Round Table Conference took a more sober and colder tone in the third. In the Joint Committee, British Indian opinion became critical of the federal scheme, and to-day the Congress as well as the Muslim League are positively hostile to the working of the proposed Federation. As the consequences of the grant of proposed federation to India became clearer, the opinion in India hardened more and more against the federal scheme.

It was really too late that British India woke up to the great harm that had been done to the cause of a completely united India by the findings of the Indian States Committee and by the acceptance of those findings by the Federal Structure Committee of the Round Table Conference and by their final statutory recognition in the Government of India Act, 1935. In the first instance, the country was not really interested in the work of the Indian States Committee; the attention of the people was more or less completely engrossed in the more immediate question of responsible government. It had not occurred to the people that a federal union of the type that was later accomplished was at all possible, and as for the claim of the States for sovereignty, why, the Political Department of the Government of India could be relied upon not to yield so much as an inch of its powers.

That is the reason why the report of the Indian States Committee did not attract the notice of the public that it deserved; the press confined its attention almost completely to the Simon Commission. Nobody had then suspected that the British Government was determined not to give responsible government to India so long as it could not be sure that the character of that government would be conservative. Statements of men like Sir Tej Bahadur Sapru, who felt that "no price was too high to bring the States into constitutional relation with British India, leaving the rest to the future"¹⁰; might have given the idea to the British Government that the conservative character of the central government could be ensured by establishing a federal scheme of organisation in India and by according to the States, in this scheme, a little more representation in the central legislature than their numbers would warrant.

That also, incidentally, explains, from the Indian point of view, some of the objectionable features of the federal scheme.

(a) Normally it should have been expected that as soon as the Indian States joined a federal union with democratically governed Provinces, they would be forced, as a condition of that union, to introduce some form of democratic government into their own territories. But the British Government declined to impose any obligation on the part of the States to move towards representative or responsible government.

(b) The representatives of the States in the Federal Legislatures have been left to be chosen by the Rulers themselves. In effect, this provision has recognised that Indian Federation is really a union of the people of British Indian provinces with about 500 State rulers each of whom is conceived of as possessing inalienable personal rights in his territory—a position which is without a parallel in the history of any other federation.

¹⁰ See Vardachariar : Indian States in the Federation, p. 142.

(c) In the course of discussions at the Round Table Conference, several States claimed that the executive authority of the Federation should be exercised in the States only through the administration of the States themselves. Although this demand was not accepted *in toto*, nevertheless a substantial concession has been made to this feeling of the Indian State rulers by providing in the Act that a State may, in its Instrument of Accession, stipulate that it should be entrusted with the right of administering any or all Federal laws through its own agency, and in such a case the only executive authority in that State would be the Ruler, who, however, since he would be exercising agency functions, would be accountable to the Governor-General for the due discharge of his duties.

All these features make the federal scheme wholly unacceptable to Indian opinion. Under the provisions of the Act, the extent of Federal executive's jurisdiction would be far larger in the administration of Provinces than in the administration of States. That would afford far more authority to State ministers of the Federal executive in the Provinces than to the Provincial ministers of the Federal executive in the States; further, it is possible to imagine that the State representative who is chosen as minister of the Federal executive represents a State which, by the terms of its Instrument of Accession, has refused to accept the direct executive authority of the Federation in its territory, so that in such a case, the minister would be exercising administrative functions everywhere except in his own State.

According to the terms of the proposed Federation, therefore, India loses in every way; the Princes gain, but even more than the Princes, the authorities at Whitehall. After all, the Princes cannot do anything against the wishes of the Paramount Power, for fear that such action might be considered "flagrant breach of treaties." In effect, therefore, the representation granted to the Indian States in the Federal Legislature would mean so much following for the British Government; the State representatives would thus take the place of present Government *bloc* in the Assembly. In the Federal Legislature, under the Act, there would be 104 representatives of the States as against 156 for British India in the Council of State, and 125 for the States as against 250 for British India in the Federal Assembly. Presuming that State representatives are solidly united under the leadership of the British Government and the representatives for British India are divided into various parties, as must naturally be the case, the State representatives would at any time form the majority group in the legislature; and presuming that the Federal ministry of the future is constituted on party lines and is constituted by the party that has a majority in the legislature, it is possible that the Federal executive would be controlled by State representatives,

either by themselves or in coalition with some other small group, almost continuously.

The prospect of such a possibility is, indeed, very serious, for should political parties in the federal legislature be really formed on these lines, the government of the future, so far as India is concerned, would become an alien government in an even more real sense than has been true so far, and with far less possibility of displacement than at present.

G

Attitude of the Indian States towards the Federal Scheme

It is difficult to state clearly what the attitude of the Indian State rulers is towards the federal scheme. Among the States, there is great mutual jealousy, born of their supreme insistence upon prestige, the larger States thinking it undignified to make common cause with the smaller. Again, the detailed interests of the various States vary greatly from each other's; as a general rule, the extent of autonomy and the nature of relationship with the Paramount Power differs from state to state. In any case, there are great differences of temperament, mental outlook, and intellectual capacity as between the various State rulers. All these factors have had their influence on the determination of the States' attitude towards the Federal scheme, and it is no wonder that the attitude has not been clearly pronounced one way or the other.

So far the Princes seem to have been literally in a state of stupefaction, not knowing what to do. A few have been engaged upon investigating the material implications of the constitutional provisions of the Federal scheme, evaluating the advantages to be gained with the disadvantages that are necessarily incidental to their joining the Federation. Others have been busy speculating upon the problems which they may be faced with in their own internal administration as a result of their accession to the Federation. And almost all are wondering whether it is at all possible, in the circumstances, to keep aloof from this strange bugbear of the Federation.

The trouble is that the advantages which accrue to the Indian States are in reality no advantages to them, although they certainly are a serious loss to British India. The possibility of interfering in the affairs of India as a whole, opened up to the Princes by the provisions of the Act, through their representatives in the Federal Legislature and the Federal Ministry, does not interest the Princes at all; by reason of such interference they do not gain anything, rather do they stand to lose, for by such action they might be giving a handle to their own subjects in the States to agitate for popular institutions. Their purpose is,

in the main, twofold : (a) to preserve their title to sovereignty as against British India, and (b) to secure, if possible, a clear definition as to the power of interference of the Paramount Power in their internal affairs. Both these objects could be gained if they could manage to enter into fresh treaties with the Crown, recognising their status as they conceive it to be, and imposing upon the Crown the obligation to protect and sustain that status. But the idea of fresh treaties, in the present circumstances, is quite unthinkable. Does the proposed Federal scheme concede to them even a part of their objective? That is the question that the Princes find themselves in the difficult position of having to answer.

From the purely legal point of view, the Federal scheme raises a number of difficulties. Their relations with the Paramount Power are already in a confused state; the Federal scheme adds to those relations another set of relationship with the Federal government. Would that help to lessen or to increase difficulties? Is it impossible that during the actual working of the Federal Government, at some unpredictable point, there might be a conflict between the demands of the Paramount Power and those of the Federal Government? Then, there are more vital considerations. The Government of India Act has certainly left unspecified the manner in which the representatives of the States to the Federal Legislature will be selected, the British Government did indeed decline to impose any obligation on the part of the States to move towards representative or responsible government; but can things go on smoothly for ever? The British Government has taken it more or less for granted that State representatives would be nominees of the Rulers and would, therefore, give undivided support to the policy of the British Government in the Federal Legislature. It is rumoured that the Rulers have even already made up their minds as to the persons who are to represent them in the Federal Legislature. But who can be certain that the State subjects will not, at the last minute, demand popular election of the representatives? If that happens, and such demand is conceded, where is the certainty that these elected representatives would unflinchingly support the view of the British Government? And may not the forcible suppression of such demand and agitation cause a riot or rebellion in the State? What would be the attitude of the Paramount Power towards such a rebellion? Would the existence of such agitation be supposed as an evidence of misgovernment, or would its ruthless suppression be considered as a mark of friendly behaviour by the Paramount Power?

The truth is that the Rulers are quite conscious that in a progressively industrialising state their position is very weak.

As the state becomes more and more positivistic, the existence of feudal territorial autonomies becomes more and more anomalous. In the face of the growing economic and political necessities, neither law nor rights, however well-founded and however well-recognised by the Paramount Power, do really avail. The Princes are instinctively aware, to an extent that the British Government does not recognise, that their safety lies only in a peaceful and quiet existence, in the corner, as it were. By coming into the arena of political conflict, such as accession to the Federal scheme would necessarily mean, they stand nothing to gain but everything to lose. They know that political forces and movements would, in any case, come and attack them some day ; but until that day comes, they can be perfectly safe in a corner position, and even when that day does come, perhaps they will be better able to defend themselves from a corner position than if they jump into the centre of the conflict now.

APPENDIX

Resolution passed at the Haripura session of the Indian National Congress—February, 1938.

The Congress has rejected the new Constitution and declared that a constitution for India which can be accepted by the people must be based upon independence and can only be framed by the people themselves by means of a constituent assembly without interference from any foreign authority. Adhering to this policy of rejection, the Congress has, however, permitted the formation in provinces of Congress Ministries with a view to strengthening the nation in its struggle for independence. In regard to the proposed Federation, no such consideration applies even provisionally, or for a period, and the imposition of this Federation will do grave injuries to India and tighten the bonds which hold her under the subjection of an imperialist domination. This scheme of Federation excludes from the sphere of responsibility the vital functions of a Government.

The Congress is not opposed to the idea of Federation, but a real Federation must, even apart from the question of responsibility, consist of free units enjoying more or less the same measure of freedom and civil liberty and representation by democratic process of election. Indian States participating in the Federation should approximate to the provinces in the establishment of representative institutions, responsible Government, civil liberties and the method of election to the Federal House. Otherwise Federation as it is now contemplated will, instead of building Indian unity, encourage separatist tendencies and involve the State in internal and external conflict.

The Congress, therefore, reiterates its condemnation of the proposed Federal scheme and calls upon provincial and local Con-

gress Committees and the people generally, as well as provincial Governments and Ministries, to prevent its inauguration.

In the event of an attempt being made to impose it, despite the declared will of the people, such an attempt must be combated in every way, and the provincial Governments and Ministries must refuse to co-operate with it.

In case such a contingency arises, the A.I.C.C. is authorised and directed to determine the line of action to be pursued in this regard.

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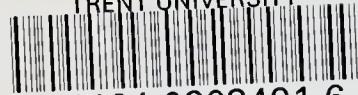
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